

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KRAFT FOODS GLOBAL, INC., THE)	
KELLOGG COMPANY, GENERAL)	
MILLS, INC., and NESTLÉ USA,)	
INC.,)	
)	No. 1:11-cv-08808
Plaintiffs,)	
)	Judge Steven C. Seeger
v.)	
)	
UNITED EGG PRODUCERS, INC.,)	
UNITED STATES EGG)	
MARKETERS, INC., CAL-MAINE)	
FOODS, INC., and ROSE ACRE)	
FARMS, INC.)	
)	
Defendants.)	

**DEFENDANTS' RESPONSE TO THE COURT'S
PRELIMINARY JURY INSTRUCTIONS**

Based on the Court's ruling regarding the instructions the Court intends to use prior to the presentation of evidence (Dkt. 358), Defendants propose three factual corrections within the non-substantive instructions and object to the Plaintiffs' supplemental instruction.¹

With respect to Page 3 of the proposed preliminary instructions to the jury, the last sentence of the second paragraph reads, "And you will hear from **three** different lawyers for the various defendants." Given that UEP and USEM will be giving

¹ Defendants understand and appreciate the Court's comments during the second installment of the pretrial conference that the Court will instruct the jury that the final instructions control, not these preliminary instructions. And, on that basis, like Plaintiffs, Defendants respectfully reserve the right to address modification to this instruction during charging conferences before the jury instructions are finalized.

separate opening statements, we request a change to, “And you will hear from **four** different lawyers for the various defendants.”

With respect to Page 7 of the proposed preliminary instructions to the jury, in the Description of the Case, the fifth paragraph reads as follows:

Both Rose Acre and Cal-Maine are producers and sellers of eggs and egg products.

Defendant Cal-Maine would seek that this be modified as follows to conform to the fact that, during the relevant time period of the conspiracy (98-08), Cal-Maine was not a producer and seller of egg products:

Cal-Maine is a producer and seller of eggs. Rose Acre is a producer and seller of eggs and egg products.

With respect to Page 8 of the proposed preliminary instructions to the jury, at the third paragraph beginning “The Plaintiffs”, Defendants respectfully request that the Court add “eggs and” before the word “egg” in the first sentence at the end of the second line.

Last, Defendants object to Plaintiffs’ supplemental preliminary instruction on the issue of timing of trial relative to the time period of the claims. Defendants’ previous objections to this previously-tendered instruction are found in App. 13-3 of the updated pretrial order.

October 15, 2023

Respectfully submitted,

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